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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,672	10/11/2001	Daniel Joseph Lee	1619.EMCO.NP	1092
26986	7590	08/24/2005	EXAMINER	
MORRIS O'BRYANT COMPAGNI, P.C. 136 SOUTH MAIN STREET SUITE 700 SALT LAKE CITY, UT 84101			MURPHY, RHONDA L	
			ART UNIT	PAPER NUMBER
			2667	

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/976,672	Applicant(s) LEE, DANIEL JOSEPH	
	Examiner Rhonda Murphy	Art Unit 2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 27-30, 43 and 44 is/are rejected.
- 7) ☒ Claim(s) 10-26 and 31-42 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because Examiner would like to suggest labeling "Table 1" as "Figure 10". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: As mentioned above, it is suggested to replace the title "Table 1" with "Figure 10" and further add "Figure 10" to the "Description of the Drawings" section in the specification on page 12.

Additionally, all references to "Table 1" within the body of the specification shall be replaced with "Figure 10".

Appropriate correction is required.

Claim Objections

1. Claim 21 is objected to because of the following informalities: The term "instruction" shall be replaced with "instructing". Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 - 3 and 27 - 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Bhattacharya et al. (US 6,826,150).

Regarding claims 1 and 27, Bhattacharya teaches providing a local switch fabric network matrix as the local network topology (Fig. 1, elements 112 and 102 combined), wherein the switch fabric network matrix is comprised of a plurality of network switching node devices (network devices 112); and providing a trunk line (line 130) that is in communication with the switch fabric network matrix and the global information network

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(internet 128), enabling transfer of data and voice communication there between (it is known in the art that the internet transfers data and voice communications).

Regarding claims 2 and 28, Bhattacharya teaches the network switching node devices further comprising the step of coupling at least one end user to one of the plurality of network switching node devices (Fig. 1, 110).

Regarding claims 3 and 29, Bhattacharya teaches providing at least one mass storage device (Fig. 4, memory located within the forward engine of the network device) for each of the plurality of network switching node devices (see Fig. 3), thereby enabling each network switching node device to cache data that can be stored on the global information network (col. 5, lines 62-66).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bhattacharya et al. (US 6,826,150).

Regarding claim 4, Bhattacharya teaches an end user coupled to the network switching node device that stores data.

Bhattacharya does not explicitly disclose enabling an end user to access data from one of the plurality of network switching node devices whenever the data is being

stored within the local switch fabric network matrix.

However, it would have been obvious to enable the user to access the stored data since the user is connected to the device which stores the information transmitted by the user.

Regarding claim 7, Bhattacharya teaches caching data within the plurality of network switching node devices that is also available on the global information network (Fig. 4, memory located within the forward engine of the network device); coupling at least one end user to one of the plurality of network switching node devices (Fig. 1, end user 110).

Bhattacharya does not explicitly disclose enabling the at least one end user to access the cached data stored within the plurality of network switching node devices instead of accessing the global information network.

However, it would have been obvious to enable the user to access the stored data since the user is connected to the device which stores the information transmitted by the user.

6. Claims 5, 8, 9, 30, 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bhattacharya et al. (US 6,826,150) in view of Johnson et al. (US 2002/0107990).

Regarding claim 5, Bhattacharya teaches enabling the network switching node device to share the data with any other network switching node device that desires to cache said data on its own mass storage device (col. 5, lines 34-43).

Bhattacharya fails to explicitly disclose enabling only one of the plurality of network switching node devices to download data from the global information network when the data is desired.

However, Johnson teaches enabling one of the devices to download data from the internet when the data is requested (page 16, paragraph 137).

In view of this, it would have been obvious to one skilled in the art to allow one switching node device to download data to share with other switching node devices, in order to maximize system resources and avoid network congestion.

Regarding claims 8 and 30, Bhattacharya teaches a plurality of network switching node devices.

Bhattacharya fails to explicitly disclose the devices as Open IP Services Platforms.

However, Johnson teaches a plurality of Open IP Services Platforms to function as the plurality of network switching node devices (page 1, paragraph 7; page 3, paragraph 36: content delivery system 1010).

In view of this, it would have been obvious to one skilled in the art to incorporate IP service platforms into Bhattacharya's system, in order to provide an optimize platform and optimize intelligence in each device (page 1, paragraph 7).

Regarding claim 9, Bhattacharya teaches a plurality of network switching node devices.

Bhattacharya fails to explicitly disclose integrating the functions of at least two network services in the Open IP Services Platform.

However, Johnson teaches integrating the functions of at least two network services in the Open IP Services Platform (page 1, paragraphs 7 and 8).

In view of this, it would have been obvious to one skilled in the art to integrate the functions of two services in order to maximize system resources and performances.

Regarding claims 43 and 44, Bhattacharya teaches providing a local switch fabric network matrix as the local network topology (Fig. 1, elements 112 and 102 combined); providing a trunk line (line 130) that is in communication with the switch fabric network matrix and the global information network (internet 128), enabling transfer of data and voice communication there between (it is known in the art that the internet transfers data and voice communications).

Bhattacharya fails to explicitly disclose the switch matrix comprising Open IP Services Platforms and storing video on the Open IP Services platform.

However, Johnson teaches a plurality of Open IP Services Platforms (page 1, paragraph 7; page 3, paragraph 36: content delivery system 1010).

In view of this, it would have been obvious to one skilled in the art to incorporate IP service platforms into Bhattacharya's system, in order to provide an optimize platform and optimize intelligence in each device (page 1, paragraph 7).

Furthermore, Johnson teaches storing at least one digitized video on one of the plurality of Open IP Services Platforms (page 16, paragraph 137; start a video stream), such that users within the local switch fabric network matrix that is storing the at least one digitized video receive video data of the at least one digitized video without having

to receive the video data from outside the local switch fabric network matrix (page 16, paragraph 137).

In view of this, it would have been obvious to one skilled in the art to store video on one of the platforms without having users receive the video data from outside of the switch matrix, in order to provide a platform with the ability to share the data with other platforms and thus maximize system resources and avoid network congestion.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bhattacharya et al. (US 6,826,150) in view of Roberts (US 2002/0080786).

Regarding claim 6, Bhattacharya teaches policing traffic to regulate the flow of packets on a network.

Bhattacharya fails to explicitly disclose increasing local traffic within the local switch fabric network matrix to thereby reduce traffic on the trunk line to the global information network.

However, Roberts teaches increasing flow within the local switch matrix to avoid congestion (page 9, paragraph 76; increase rate to avoid congestion loss problems).

Allowable Subject Matter

8. Claims 10-26, 31-42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

*McNamara (US 6,262,976) discloses a system and method for network flow optimization using traffic classes.

*Bartholomew et al. (US 6,215,858) discloses analog terminal internet access.

*Mao et al. (US 2002/0037731) discloses traffic congestion management when providing real-time information to service providers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rhonda Murphy whose telephone number is (571) 272-3185. The examiner can normally be reached on Monday - Friday 8:00 - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Rhonda Murphy
Examiner
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PRIMARY EXAMINER

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